



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 07859-99
22 March 2000

SSC [REDACTED] SMC
[REDACTED]
[REDACTED]

Dear Staff [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of your fitness report for 1 March to 14 April 1994.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report by removing the statement "RO [reviewing officer] comments sufficient" from the Standard Addendum Page.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 10 December 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice warranting further correction. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7859-99
IN REPLY REFER TO:
1610

MMER/PERB

DEC 10 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], [REDACTED] SMC

Ref: (a) SSgt [REDACTED]'s DD Form 149 of 25 Oct 99
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 7 December 1999 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 940301 to 940414 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner argues that the report fails to comply with the provisions of reference (b) in that as an adverse report, Item 25 has only been initialed (without the accompanying Reviewing Officer's Certification on page two). He also challenges the validity of the report because of the comments on the Standard [REDACTED] Page initialed by Lieutenant Colonel [REDACTED] and Colonel [REDACTED] indicating the presence of Reviewing Officer's comments, as well as an incorrect initial in Block 1d of that page. As a final matter, the petitioner takes exception with the pen change in Section A of the report.

3. In its proceedings, the PERB concluded that, with one minor exception, the report is administratively correct and procedurally complete as written and filed. The following is offered, as relevant:

a. As a "not observed" report, the Reviewing Officer was only required to validate Item 25. Although the petitioner provided a rebuttal to this adverse evaluation, no adjudication was necessary since the petitioner merely acknowledged his failure of the physical fitness test (PFT) (i.e., the issue which caused the adversity and his disenrollment from the Staff Noncommissioned Officer Academy). Subparagraph 4009.3 of reference (b) applies.

b. The petitioner's belief that the pen change in Section A is grounds to have the report removed is unfounded. While pen changes in Section A are discouraged, the Board is haste to point

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out that the pen change corrected information that the petitioner himself identified as being correct when he signed Item 22 (i.e., his middle initial). Neither that correction nor the incorrect initial on the Standard Addendum Page has any bearing on the substance of the report.

c. Since there are no Reviewing Officer's comments appended to the challenged fitness report, the Board is directing the removal of the one sentence on the Standard Addendum Page (to wit: "RO comments sufficient").

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as modified, should remain a part of Staff Sergeant [REDACTED] official military record. The limited corrective action identified in subparagraph 3c is considered sufficient.

5. The case is forwarded for final action.

[REDACTED]

Person, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps